

THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) CR. NO. 1:07CR210-MHT
)
ROSE MCCLAIN)

UNITED STATES MOTION FOR DOWNWARD DEPARTURE
PURSUANT TO U.S.S.G. 5K1.1 FOR SUBSTANTIAL ASSISTANCE

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and pursuant to Section 5K1.1 of the United States Sentencing Guidelines, respectfully requests this Honorable Court reduce defendant's offense level by two levels. As reasons therefore, the United States submits the following:

1. McClain was charged in a five count indictment with one count of violating Title 18, United States Code , Section 371 and four counts of aiding and abetting a violation of Title 18, United States Code, Sections 641 and 2, relating to false claims made with the Federal Emergency Management Agency ("FEMA"). McClain pled guilty to Count 2 of the indictment and the United States has agreed to dismiss counts 1, 3, 4, and 5 against McClain at sentencing pursuant to a plea agreement. According to the Presentence Report, McClain's offense level equals 6 and her Criminal History Category is I, resulting in a guidelines range of 0-6 months in Zone A.

2. During the course of this investigation, McClain was cooperative and truthful with law enforcement. McClain initially notified the Department of Homeland Security of the fraud in this case and was truthful in interviews with law enforcement agents. McClain agreed to testify against her co-defendant, Ronald Irby, and cooperated with the United States Marshal's Service

by providing information regarding Irby's location to assist in Irby's apprehension. Her co-defendant Irby has previously pled guilty and been sentenced in this court. McClain's cooperation was of substantial assistance to the prosecution and conviction of Irby.

3. The United States asserts that a certain amount of danger is inherent to individuals when they provide information useful to law enforcement and that in this case McClain assisted law enforcement despite previously being the victim of domestic violence committed against her by Irby.

Wherefore, premises considered, the United States moves this Honorable Court grant a downward departure of a two level reduction in the defendant's offense level for her substantial assistance pursuant to U.S.S.G. § 5K1.1.

Respectfully submitted this the 4th day of March, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Daniel G. Hamm, attorney for the defendant..

Respectfully submitted,

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